

**STATE OF CONNECTICUT
COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES
OFFICE OF PUBLIC HEARINGS**

Pamela Banks, : No. OPH/WBR-2006-017
Complainant

v. :

Civil Service Commission, et al., : March 21, 2006
Respondents

RULING ON MOTION TO DISMISS

The complainant filed this complaint pursuant to General Statutes § 4-61dd (b) (3) (A) on January 30, 2005, alleging that her former employers, respondents Town of Winchester and its Civil Service Commission, retaliated against her because she had engaged in protected "whistleblowing" activities.

On January 27, 2006, the respondents filed their answer to the complaint and a motion to dismiss this action, claiming, among other things, that this tribunal lacks jurisdiction over the parties because they are not entities covered by General Statutes § 4-61dd, and that the complainant failed to comply with the §4-61dd (b) (1) disclosure requirements that would trigger the statute's protection.

A motion to dismiss is an appropriate means to challenge a tribunal's jurisdiction to hear an action. *Jolly, Inc. v. Zoning Board of Appeals*, 237 Conn. 184 (1996); *Upson v. State*, 190 Conn. 622, 624 (1983). The motion admits all facts well-pleaded and

invokes any record that accompanies the motion, including supporting affidavits that contain undisputed facts. *Malasky v. Metal Products Corp.*, 44 Conn. App. 446, 451-52, cert. denied, 241 Conn. 906 (1997). In evaluating the motion, the complainant's allegations and evidence must be accepted as true and interpreted in a light most favorable to the complainant; every reasonable inference is to be drawn in her favor. *New England Savings Bank v. Bedford Realty Corp.*, 246 Conn. 594, 608 (1998).

On March 15, 2006, the complainant filed a letter stating, "Please use this letter as my response to the request for dismissal submitted by Attorney Mehta. Although I do not agree with most of [the respondents'] answers, I cannot dispute their claim that CHRO [i.e., the Office of Public Hearings] has no jurisdiction in this case." Given the complainant's concession and the respondents' correct reading of the applicable law, I can grant the respondents' motion with little or no discussion.

The complaint must also be dismissed as untimely. According to § 4-61dd (b) (3), the complainant must file her complaint "not later than thirty days after learning of the specific incident giving rise to a claim that a personnel action has been threatened or has occurred in violation of § 4-61dd (b) (1) . . ." The complainant claims that she learned of her termination on December 28, 2005. (See Complaint, ¶8.) She filed her complaint on January 30, 2006, one business day after the thirty-day deadline, January 27, 2006, and she has offered no reason (such as consent, waiver, or equitable tolling) why the filing period should have been extended. See *Williams v. Commission on Human Rights and Opportunities*, 257 Conn. 258, 284 (2001).

For each of the foregoing reasons, this tribunal lacks jurisdiction over this complaint and it must be, and hereby is, dismissed.

Date

David S. Knishkowsky
Human Rights Referee

Copies sent on this date via certified mail,
return receipt requested, to all parties of record.